

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Mr. David P. Pace, Jr. d.b.a.
Pacetronics
Pace Marketing
531-C East Main Street
Nacogdoches, TX 75963

File No.: EB-03-DL-143
Sent via Certified
Return Receipt Requested
and First Class U.S. Mail

CITATION

Released: July 7, 2003

By the Enforcement Bureau, Dallas Office:

1. This is an Official Citation issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended ("Act"),¹ to Mr. David P. Pace, Jr. d.b.a. Pacetronics / Pace Marketing for violation of Section 302(b) of the Act,² and Section 2.803(a)(1) of the Commission's Rules.³

2. An investigation by the FCC's Dallas Office revealed that the Internet domain name PACERADIOS.COM is registered to Pace Marketing, David Pace, P.O. Box 631207, Nacogdoches, TX 75963 with Pace Marketing, David Pace listed as the administrative contact. Furthermore, on June 30, 2003, Mr. David P. Pace, Jr. d.b.a. Pacetronics / Pace Marketing through its Internet site(s) www.paceradios.com (with an addresses listed on the site as Pace Marketing, 531-C East Main St, Nacogdoches, TX 75961 and Pace Marketing, P.O. Box 631207, Nacogdoches, TX 75961) offered for sale, the following thirty seven (37) non-certified Citizens Band transceivers:

<u>NAME</u>	<u>MODEL</u>	<u>PRICE</u>	<u>DESCRIPTION</u>
Connex	4800 DXL	\$289.99	12 Bands of 40 Channels
Connex	4400 High Power	\$219.99	8 Bands of 40 Channels
Connex	3300 High Power	\$199.99	Range 25.615 – 28.305
Connex	3300	\$179.99	Range 25.615 – 28.305
Connex	Patriot	\$199.99	Range 25.615 – 28.305
Connex	Deer Hunter	\$139.99	Can be converted to operate on 120 Chan.
Connex	3300 LE	\$179.99	Range 25.615 – 28.305
Connex	3300 HP LE	\$199.99	Range 25.615 – 28.305
Connex	3300 Coyote Hunter	\$169.99	. . . CB band, with . . . 120 channels below
Galaxy	DX99V	\$329.99	Robot Talk, Voice Changer
Galaxy	DX 93T	\$429.99	Echo with dual controls
Galaxy	DX88HL	\$314.99	Dual-Control Echo, Talkback
Galaxy	DX77HML	\$219.99	6 bands of 40Ch.
Galaxy	DX66V	\$234.99	Dual Control Echo, Talkback

¹ 47 U.S.C. § 503(b)(5)

² 47 U.S.C. § 302a(b)

³ 47 C.F.R. § 2.803(a)(1)

Galaxy	DX55V	\$164.99	equipped as an ideal multi-band radio
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<u>NAME</u>	<u>MODEL</u>	<u>PRICE</u>	<u>DESCRIPTION</u>
Galaxy	48T	\$369.99	Deluxe Export Radio
Galaxy	DX45-MP	\$249.99	Export Radios
Galaxy	DX44V	\$189.99	Dual control echo/reverb
Galaxy	DX33HML	\$159.99	dual control echo/reverb, Talkback
General	Lee	\$199.99	6 Bands of 40 Channels
General	A.P. Hill	\$169.99	6 Bands of 40 Channels
General	Grant	\$399.99	12 Bands of 40 Channels ? ? ?
General	Longstreet	\$229.99	6 Bands of 40 Channels
Magnum	257	\$179.99	10 bands of channels
Ranger	6900F-25	\$289.99	. . . 12-band segments
Ranger	6900F-150	\$409.99	. . . 24.2650 – 29.6650 MHz
Ranger	6900FTB-refurbished	\$369.99	Export Radios
Ranger	6300F-25	\$269.99	. . . 12-band segments
Ranger	6300F-150	\$389.99	Export Radios
Ranger	2995DX	\$549.99	Export Base Station
Ranger	2985DX	\$439.99	Export Base Station
Ranger	2980WX	\$409.99	Export Base Station
Ranger	2970DX	\$399.99	Export Radios
Ranger	2950DX	\$269.99	Export Radios
Superstar	3900HP-Gold	\$239.99	6 Bands 240 Channels
Superstar	Grant	\$179.99	120 Channels
Superstar	121	\$129.99	CB features...with...Upper and Lower Freq

According to the Commission's records, these devices have not received an FCC equipment authorization which is required for Citizens Band transmitters marketed in the United States.

3. Section 302(b) of the Act² provides “[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.” Section 2.803(a)(1) of the Rules³ provides that “... no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless: (1) In the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled” Mr. David P. Pace, Jr. d.b.a. Pacetronics / Pace Marketing's offer for sale of these devices violates both sections.

4. Mr. David P. Pace, Jr. d.b.a. Pacetronics / Pace Marketing marketed these devices as amateur transceivers. The Commission has evaluated radiofrequency devices similar to those listed in paragraph 2 and concluded that the devices at issue are not only amateur radios but can easily be altered for use as Citizens Band devices as well. A CB transmitter is a transmitter that operates or is intended to operate at a station authorized for the CB service, and it must be certificated by the FCC prior to marketing or importation.⁴ The Commission has further concluded that these devices fall within the definition of a CB transmitter and therefore cannot legally be imported or marketed in the United States. *See* Response from the Commission's General Counsel to U.S. Customs Service dated May 17, 1999, 14 FCC Rcd 7797 (1999).

⁴ *See* 47 C.F.R. §§ 95.603(c) & 2.803

5. Additionally, dual use CB and amateur radios of the kind at issue here may not be certificated under the Commission's rules. Section 95.655(a) of the rules⁵ states: "... ([CB] Transmitters with frequency capability for the Amateur Radio Services . . . will not be certificated.)" *See also* FCC 88-256, 1988 WL 488084 (August 17, 1988). This clarification was added to explicitly foreclose the possibility of certification of dual use CB and amateur radios, *see id.*, and thereby deter use by CB operators of frequencies allocated for amateur radio use.

6. Furthermore, the Commission has revised Section 2.1204(a)(5) of its rules⁶ to prohibit all marketing and/or offering for sale in the United States of such devices even when the purchaser(s) had provided assurances that the transceivers are being bought solely for export. ALL DOMESTIC MARKETING OF SUCH DEVICES VIOLATES THE COMMUNICATIONS ACT OF 1934, AS AMENDED, AND THE COMMISSION'S RULES.

7. In addition to the marketing of the non-certified transceivers addressed above, Mr. David P. Pace, Jr. d.b.a. Pacetronics / Pace Marketing is warned that Section 302(b) of the Act², and Section 2.815(c) of the Commission's Rules⁷ requires FCC Type Acceptance (or Certification) of External Radio Frequency Power Amplifiers (or amplifier kits) capable of operation on any frequency or frequencies below 144 MHz. Furthermore, Section 2.815(b) of the Commission's Rules⁸ prohibits the marketing of External Radio Frequency Power Amplifiers (or amplifier kits) capable of operation on any frequency or frequencies between 24 and 35 MHz.

8. Subsequent violations of the Communications Act and/or of the Commission's Rules may subject the violator to substantial monetary forfeitures not to exceed \$11,000 for each such violation or each day of a continuing violation,⁹ seizure of equipment through *in rem* forfeiture action, and criminal sanctions including imprisonment.¹⁰

9. Mr. David P. Pace, Jr. d.b.a. Pacetronics / Pace Marketing may request a personal interview at the closest FCC location to its place of business,¹¹ namely:

Federal Communications Commission
9330 LBJ Freeway, Suite 1170
Dallas, Texas 75243-3470

which can be contacted by telephone at 214-575-6361. They must schedule this interview to take place within 14 days of the date of this citation. Mr. David P. Pace, Jr. d.b.a. Pacetronics / Pace Marketing may submit a written statement within 14 days of the date of this Citation to the same address. Any written statement should specify what actions have been taken to correct the violation outlined above. When corresponding with the Commission, case number EB-03-DL-143 should be referenced.

⁵ 47 C.F.R. § 95.655(a)

⁶ 47 C.F.R. § 2.1204(a)(5) revised effective February 28, 2000

⁷ 47 C.F.R. § 2.815(c)

⁸ 47 C.F.R. § 2.815(b)

⁹ *See* 47 C.F.R. § 1.80(b)(3)

¹⁰ *See* 47 U.S.C. §§ 401, 501, 503, 510

¹¹ *See* 47 U.S.C. § 503(b)(5)

10. Any statement or information provided may be used by the Commission to determine if further enforcement action is required.¹² Any knowingly or willfully false statement made in reply to this notice is punishable by fine or imprisonment.¹³

FEDERAL COMMUNICATIONS COMMISSION

James D. Wells
District Director - Dallas Office

LRB

Cc: Mr. David P. Pace, Jr. d.b.a.
Pacetrronics
Pace Marketing
P.O. Box 631207
Nacogdoches, TX 75963

¹² See Privacy Act of 1974, 5 U.S.C. §552a(e)(3)

¹³ See 18 U.S.C. §1001